

June 17, 2022

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: lad
DEPUTY

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS - WACO DIVISION

PROFESSOR MICHAEL STEVEN MOATES,
MA, QBA, LBA, LMHP, LCMHC
2700 COLORADO BOULEVARD APT 1526
DENTON, TEXAS 76210
MIKE@BEHAVIORMED.ORG

PLAINTIFF

VS.

JOSEPH R. BIDEN JR.
PRESIDENT OF THE UNITED STATES
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20530-0001

STATE OF GEORGIA
40 CAPITOL SQUARE, SW
ATLANTA, GA 30334

STATE OF LOUISIANA
1885 N. THIRD STREET
BATON ROUGE, LA 70802

STATE OF MISSOURI
P.O. BOX 899
JEFFERSON CITY, MO 65102

STATE OF NORTH CAROLINA
P.O. BOX 629
RALEIGH, NC 27602

STATE OF OKLAHOMA
313 NE 21ST STREET
OKLAHOMA CITY, OK 73105

STATE OF TEXAS
300 W. 15TH STREET, 7TH FLOOR
AUSTIN, TX 78701

STATE OF VIRGINIA
202 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219

CASE NO. **6:22-cv-00626-ADA**

JURY TRIAL DEMANDED

WILLIAM BOURLAND, INDIVIDUALLY)
7117 FORESTVIEW DR)
ARLINGTON, TX 76016)
)
STATE OF WYOMING)
109 STATE CAPITOL)
CHEYENNE, WY 82002)
)
BRIAN FINDLAY, INDIVIDUALLY)
6310 N MACARTHUR BLVD APT: 3039)
IRVING, TX 75039)
)
MARIEL FERNANDEZ, INDIVIDUALLY)
10503 METRIC DRIVE)
DALLAS, TX 7524)
)
JOYCE MAUK, INDIVIDUALLY)
1300 W LANCASTER)
FORT WORTH, TX 76102)
)
CAROL SLOAN, INDIVIDUALLY)
1120 MEDICAL PLAZA DRIVE)
SUITE 100)
THE WOODLANDS, TX 77380)
)
LAURIE SNYDER, INDIVIDUALLY)
PO BOX 92123)
SOUTHLAKE, TEXAS 76092)
)
STEPHANIE SOKOLOSKY, INDIVIDUALLY)
PO BOX 532228)
HARLINGEN, TX 78553)
)

EX PARTE MOTION TO COMPEL

PLAINTIFF MICHAEL MOATES, MA, QBA, LBA, LCMHC HEREBY MOVES THE COURT TO ORDER DEFENDANTS STATE OF TEXAS AND TEXAS DEPARTMENT OF LICENSING AND REGULATION TO PROVIDE THE FULL NAME, ADDRESS, PHONE NUMBER, AND EMAIL OF THE BEHAVIOR ANALYST ADVISORY BOARD OF THE STATE OF TEXAS, EXECUTIVE DIRECTOR MICHAEL ARISMELENDEZ, AND PROGRAM SPECIALIST KATIE BRICE.

THE PLAINTIFF SOUGHT TO GET THIS INFORMATION IN GOOD FAITH FROM THE DEPARTMENT TO WHICH THE DEPARTMENT DECLINED. SEE EXHIBIT A AND B. WE KNOW THE DEPARTMENT HAS THIS INFORMATION BECAUSE THEY ADMIT IT IN THE EMAIL AND THEN SAY THEY DECLINE TO PASS IT ALONG.

THERE ARE A FEW DIFFERENT REASONS WHY THE PLAINTIFF NEEDS THIS INFORMATION. FIRST, THE PLAINTIFF WANTS MAKE SURE THAT SERVICE OF PROCESS IS COMPLETED IN COMPLIANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE. SECOND, THE PLAINTIFF FILED IN FORMA PAUPERIS AND IS REQUESTING THE COURT SERVE VIA UNITED STATE MARSHALS. THE PLAINTIFF WOULD LIKE TO SAVE THE COURT AND THE MARSHAL SERVICE COSTS BY ASKING THE DEFENDANTS IF THEY WOULD BE WILLING TO SAVE SERVICE. THIRD, THIS INFORMATION IS NEEDED TO PROVIDE THESE DEFENDANTS FAIR NOTICE OF THE MOTION FOR TEMPORARY RESTRAINING ORDER THAT WILL BE FILED WITH THE COURT IN THE NEXT 48 HOURS. FURTHER THE PENDING MOTION FOR INJUNCTIVE RELIEF. FINALLY, THE PLAINTIFF WISHES TO SAVE THE OTHER DEFENDANTS FROM THE HUMILIATION AND EMBARRASSMENT OF BEING SERVED IN FRONT OF THEIR CO-WORKERS. THE PLAINTIFF DOES NOT HAVE ANY OTHER MEANS OF SERVICE.

LEGAL STANDARD

AS THE SOUTHERN DISTRICT OF CALIFORNIA RULED IN TGG MANAGEMENT COMPANY INC. (DBA TGG ACCOUNTING) V JOHN PETRAGLIA, ET AL. (2019):

“RULE 26(D) OF THE FEDERAL RULES OF CIVIL PROCEDURE GENERALLY PROVIDES THAT FORMAL BY RULE 26(F). FED. R. CIV. P. 26(D)(1). COURTS MAY PERMIT EXPEDITED DISCOVERY BEFORE THE RULE 26(F) CONFERENCE UPON

A SHOWING OF GOOD CAUSE. SEE APPLE INC. V. SAMSUNG ELECS. CO., 768 F. SUPP. 2D 1040, 1044 (N.D. CAL. 2011).

“GOOD CAUSE EXISTS WHEN THE NEED FOR EXPEDITED DISCOVERY, IN CONSIDERATION WITH THE ADMINISTRATION OF JUSTICE, OUTWEIGHS THE PREJUDICE TO THE RESPONDING PARTY. SEE AM. LEGALNET, INC. V. DAVIS, 673 F. SUPP. 2D 1063, 1066 (C.D. CAL. 2009).

IN THIS CASE, THE PLAINTIFF SIMPLY WANTS TO ACT IN GOOD FAITH AND PROVIDE REASONABLE NOTICE TO ALL PARTIES OF LITIGATION AND TRO/PI HEARINGS.

THE EX PARTE MOTION IS NEEDED BECAUSE THE DEPARTMENT HAS SAID IT WILL “REVIEW OUR OPTIONS AND DECIDE WHAT BEST SUITS OUR INTERESTS” REGARDING WAIVING SERVICE. THUS, PLAINTIFFS NEED THIS ORDER PRIOR TO THEIR DECISION TO GIVE FAIR NOTICE TO ALL PARTIES OF THE TRO/PI HEARINGS. SEE EXHIBIT C.

IT IS NOT SURPRISING THAT THE DEPARTMENT WOULD SEEK TO DELAY THE PLAINTIFFS HEARINGS IN VIOLATION OF DUE PROCESS CONSIDERING THAT WHEN THIS CASE WAS FIRST FILED IN STATE COURT, THE DEPARTMENT COMMITTED PERJURY AND WILFULLY LIED TO THE COURT ON TWO SEPARATE OCCASIONS WITH THE INTENTION OF MISLEADING THE COURT.

I THANK THE COURT FOR ITS CONSIDERATION TO CORRECT THIS MISCARRAIGE OF JUSTICE AND ATTEMPT AT DELAYING AND OBSTRUCTING THE PROCEEDINGS. IT IS IN THE BEST INTEREST OF JUSTICE THAT ALL PARTIES ARE AWARE OF THE MOTION FOR TRO AS SOON AS POSSIBLE.

VERY RESPECTFULLY,

/S/ PROF. MICHAEL MOATES, MA, QBA, LBA, LCMHC, LMHP

2700 COLORADO BOULEVARD APT 1526

DENTON, TX 76210

817-999-7534

MIKE@BEHAVIORMED.ORG

EXHIBIT A

Elizabeth Salinas - Strittmatter, counsel at Texas DLR, tells me that each board member must be served personally. Thus, without a waiver of service, US Marshals will have to serve you in person wherever you may be found. Thank you for your anticipated response.

If someone could kindly pass this along to Laurie Snyder and Joyce Mauk, I would appreciate it. I would have to have them served by US Marshal because I simply don't have their emails.

Thank you,

Prof. Michael Moates, MA, QBA, LBA, LCMHC

Adj. College Professor | Licensed Behavior Analyst | Licensed Clinical Mental Health Counselor
Candidate for the Doctor of Education | Commissioned Notary Public, State of Texas

Cell: 254-966-2837

Email: mike@behaviormed.org

"Yesterday is not ours to recover but tomorrow is ours to win or lose."
President Lyndon B. Johnson

Confidentiality Notice: Information in this email may subject to the Health Insurance and Portability Accountability Act of 1996. If you received this email in error please contact mike@behaviormed.org or at 817-999-7534. Then kindly delete the content.

EXHIBIT B

ES

Elizabeth Salinas-Strittmatter <Elizabeth.Salinas-Strittmatter@tdlr.texas.gov>










To: Michael Moates

Cc: Brad Bowman <Brad.Bowman@tdlr.texas.gov>; Della Lindquist <Della.Lindquist@tdlr.texas.gov> +1 other

Mr. Moates,

You are suing Board members *"in their personal capacity outside of their official positions"* as stated below. Therefore, it is not this Department's responsibility to forward your e-mail to Ms. Snyder or Ms. Mauk and we decline to do so.

Regards,
Elizabeth Salinas-Strittmatter
Assistant General Counsel
Texas Department of Licensing and Regulation



Thu 6/16/2022 8:08 PM

EXHIBIT C

ES

Elizabeth Salinas-Strittmatter <Elizabeth.Salinas-Strittmatter@tdlr.texas.gov>

To: Michael Moates

Cc: Susan Millsapps <Susan.Millsapps@tdlr.texas.gov>










Mr. Moates,

I have reviewed your service packet. I note that you are attempting to sue "The State of Texas" , but you do not name TDLR specifically. To the extent that you are seeking to sue TDLR, I will accept service on behalf of TDLR and its employees. Although TDLR is a state agency, it is not "The State of Texas". Accordingly, I cannot accept service on behalf of "The State of Texas". You will need to properly name TDLR as a Defendant and serve us under the agency's name. If you do not properly name TDLR, I will reject service.

We are considering whether to accept service via e-mail but will not sign anything today. We will review our options and decide what best suits our interests. Per the waiver that you attached; we have 30 days to decide how to proceed.

With regards to the Board members, your packet indicates that you are suing them in their individual capacities. We will not accept service on their behalf. You must serve them on your own and in accordance with the federal rules.

Regards,
Elizabeth Salinas-Strittmatter
Assistant General Counsel
Texas Department of Licensing and Regulation



Mon 6/13/2022 11:01 AM